

Remarks

Reconsideration of the application is respectfully requested in view of the following remarks.
The Applicants have canceled claims 7, 11, 12, 61, and 67 without prejudice.

Claims 6, 13, 15, 16, 21, 22, 24-26, 28, 30-35, 38-41, 43-55, 57-59, 62-66, 68, 69, 71-73, and 75-101 are pending in the Application. Claims 6, 13, 15, 16, 25, 26, 28, 30-35, 38-40, 45-51, 58, 62-64, 66, 68, 69, 71-73, 75, 78-81, and 85 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over US Patent No. 6,335,736 to Wagner ("Wagner") in view of US Patent No. 6,002,394 to Schein et al. ("Schein"). Claims 21, 22, 24, 41, 43, 44, 52-55, 57, 59, 65, 76, 77, 82-84, and 86-101 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Wagner in view of Schein and US Patent No. 5,778,181 to Hidary et al. ("Hidary").

The Applicants respectfully disagree with the Examiner's reasoning and the Examiner's characterization of the cited references and claims in the rejections of the claims. To expedite prosecution, however, with this response, the Applicants are filing a Declaration of Prior Invention under 37 CFR § 1.131, which removes Wagner as a reference. Therefore, all pending claims should be allowable.

Initialed Form 1449 Not Yet Received

On March 3, 2004 (stamped received by the U.S. P.T.O. on March 5, 2004), the Applicants submitted eight references with an Information Disclosure Statement. The Applicants have not yet received an initialed form 1449 for this IDS. The Applicants respectfully request that the Examiner provide the initialed form 1449 for this IDS. *See* MPEP § 609 ("An information disclosure statement filed in accordance with the provisions of 37 CFR 1.97 and 37 CFR 1.98 will be considered by the examiner assigned to the application.").

Wagner Is Not Prior Art

Wagner is a divisional of U.S. Patent Application Number 08/937,630, which was filed on September 26, 1997. Therefore, the effective 35 U.S.C. § 102(e) date of Wagner is September 26, 1997.

In the present Application, the Applicants invented the subject matter of claims 6, 13, 15, 16, 21, 22, 24-26, 28, 30-35, 38-41, 43-55, 57-59, 62-66, 68, 69, 71-73, and 75-101 before September 26, 1997. The Applicants submit herewith a Declaration of Prior Invention under 37 CFR § 1.131.

This Declaration establishes that the Applicants reduced to practice the subject matter of each of claims 6, 13, 15, 16, 21, 22, 24-26, 28, 30-35, 38-41, 43-55, 57-59, 62-66, 68, 69, 71-73, and 75-101 before September 26, 1997.

Under 35 U.S.C. § 102(a) and (b), Wagner has an effective date of January 1, 2002. The present application has a filing date of September 15, 1998. Therefore, Wagner is not prior art under 35 U.S.C. § 102(a) or (b), nor does any application or patent related to Wagner qualify as prior art under 35 U.S.C. § 102(a) or (b).

Because Wagner is not prior art to the claims of the present Application, the Applicants respectfully request that the rejections of claims 6, 13, 15, 16, 21, 22, 24-26, 28, 30-35, 38-41, 43-55, 57-59, 62-66, 68, 69, 71-73, and 75-101 be withdrawn.


Conclusion

The claims in their present form should now be allowable. Such action is respectfully requested.

Respectfully submitted,

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